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19 JAN 2006

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In re Application of HANING et al :
U.S. Application No.: 10/516,778 :
PCT Application No.: PCT/EP03/05695 :
Int. Filing Date: 30 May 2003 : DECISION
Priority Date Claimed: 03 June 2002 :
Attorney Docket No.: Le A 36 111 :
For: USE OF COMPOUNDS THAT STIMULATE :
CGMP :

This is in response to the correspondence filed 08 September 2005, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 30 May 2003, applicant filed international application PCT/EP03/05695, which claimed priority of an earlier Germany application filed 03 June 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 11 December 2003. The thirty-month period for paying the basic national fee in the United States expired on 03 December 2004.

On 03 December 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 July 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 08 September 2005, applicant filed the present request for status under 37 CFR 1.42, including an executed declaration.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration filed 08 September 2005 is in compliance with 37 CFR 1.42 and 1.497.

Applicant is advised that the submission of a declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 30 May 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 September 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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